

AMENDED IN SENATE JUNE 15, 2014

AMENDED IN SENATE JUNE 10, 2014

AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 634

Introduced by Assembly Member Gomez

February 20, 2013

An act to amend Section 6254.21 of the Government Code, relating to public records.

LEGISLATIVE COUNSEL’S DIGEST

AB 634, as amended, Gomez. Public records: exception to disclosure: public officials.

The California Public Records Act requires state and local agencies to make public records available for inspection by the public, subject to specified criteria and with specified exceptions. The act prohibits a person, business, or association from publicly posting or displaying on the Internet the home address or telephone number of any elected or appointed official, defined to include a public safety official, if that official has made a written demand to not have that information disclosed. Existing law permits an elected or appointed official to designate the official’s employer, a related governmental entity, or a voluntary professional association of similar officials to act as that official’s agent with regard to making that written demand. Existing law requires a written demand made by an official’s agent to describe a threat or fear for safety of the official or any person residing at the official’s home address.

This bill would additionally permit the recognized collective bargaining representative of an appointed official who is a peace officer, as defined, *a District Attorney, or a Deputy District Attorney*, to make a written demand for nondisclosure under this law on behalf of that appointed official.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6254.21 of the Government Code is
2 amended to read:

3 6254.21. (a) No state or local agency shall post the home
4 address or telephone number of any elected or appointed official
5 on the Internet without first obtaining the written permission of
6 that individual.

7 (b) No person shall knowingly post the home address or
8 telephone number of any elected or appointed official, or of the
9 official's residing spouse or child, on the Internet knowing that
10 person is an elected or appointed official and intending to cause
11 imminent great bodily harm that is likely to occur or threatening
12 to cause imminent great bodily harm to that individual. A violation
13 of this subdivision is a misdemeanor. A violation of this
14 subdivision that leads to the bodily injury of the official, or his or
15 her residing spouse or child, is a misdemeanor or a felony.

16 (c) (1) (A) No person, business, or association shall publicly
17 post or publicly display on the Internet the home address or
18 telephone number of any elected or appointed official if that official
19 has, either directly or through an agent designated under paragraph
20 (3), made a written demand of that person, business, or association
21 to not disclose his or her home address or telephone number.

22 (B) A written demand made under this paragraph by a state
23 constitutional officer, a mayor, or a Member of the Legislature, a
24 city council, or a board of supervisors shall include a statement
25 describing a threat or fear for the safety of that official or of any
26 person residing at the official's home address.

27 (C) A written demand made under this paragraph by an elected
28 official shall be effective for four years, regardless of whether or
29 not the official's term has expired prior to the end of the four-year
30 period.

1 (D) (i) A person, business, or association that receives the
2 written demand of an elected or appointed official pursuant to this
3 paragraph shall remove the official's home address or telephone
4 number from public display on the Internet, including information
5 provided to cellular telephone applications, within 48 hours of
6 delivery of the written demand, and shall continue to ensure that
7 this information is not reposted on the same Internet Web site,
8 subsidiary site, or any other Internet Web site maintained by the
9 recipient of the written demand.

10 (ii) After receiving the elected or appointed official's written
11 demand, the person, business, or association shall not transfer the
12 appointed or elected official's home address or telephone number
13 to any other person, business, or association through any other
14 medium.

15 (iii) Clause (ii) shall not be deemed to prohibit a telephone
16 corporation, as defined in Section 234 of the Public Utilities Code,
17 or its affiliate, from transferring the elected or appointed official's
18 home address or telephone number to any person, business, or
19 association, if the transfer is authorized by federal or state law,
20 regulation, order, or tariff, or necessary in the event of an
21 emergency, or to collect a debt owed by the elected or appointed
22 official to the telephone corporation or its affiliate.

23 (E) For purposes of this paragraph, "publicly post" or "publicly
24 display" means to intentionally communicate or otherwise make
25 available to the general public.

26 (2) An official whose home address or telephone number is
27 made public as a result of a violation of paragraph (1) may bring
28 an action seeking injunctive or declarative relief in any court of
29 competent jurisdiction. If a court finds that a violation has occurred,
30 it may grant injunctive or declarative relief and shall award the
31 official court costs and reasonable attorney's fees. A fine not
32 exceeding one thousand dollars (\$1,000) may be imposed for a
33 violation of the court's order for an injunction or declarative relief
34 obtained pursuant to this paragraph.

35 (3) An elected or appointed official may designate in writing
36 the official's employer, a related governmental entity, or any
37 voluntary professional association of similar officials to act, on
38 behalf of that official, as that official's agent with regard to making
39 a written demand pursuant to this section. In the case of an
40 appointed official who is a peace officer, as defined in Sections

1 830 to 830.65, inclusive, of the Penal Code, *a District Attorney*,
2 *or a Deputy District Attorney*, that official may also designate his
3 or her recognized collective bargaining representative to make a
4 written demand on his or her behalf pursuant to this section. A
5 written demand made by an agent pursuant to this paragraph shall
6 include a statement describing a threat or fear for the safety of that
7 official or of any person residing at the official's home address.

8 (d) (1) No person, business, or association shall solicit, sell, or
9 trade on the Internet the home address or telephone number of an
10 elected or appointed official with the intent to cause imminent
11 great bodily harm to the official or to any person residing at the
12 official's home address.

13 (2) Notwithstanding any other law, an official whose home
14 address or telephone number is solicited, sold, or traded in violation
15 of paragraph (1) may bring an action in any court of competent
16 jurisdiction. If a jury or court finds that a violation has occurred,
17 it shall award damages to that official in an amount up to a
18 maximum of three times the actual damages but in no case less
19 than four thousand dollars (\$4,000).

20 (e) An interactive computer service or access software provider,
21 as defined in Section 230(f) of Title 47 of the United States Code,
22 shall not be liable under this section unless the service or provider
23 intends to abet or cause imminent great bodily harm that is likely
24 to occur or threatens to cause imminent great bodily harm to an
25 elected or appointed official.

26 (f) For purposes of this section, "elected or appointed official"
27 includes, but is not limited to, all of the following:

- 28 (1) State constitutional officers.
- 29 (2) Members of the Legislature.
- 30 (3) Judges and court commissioners.
- 31 (4) District attorneys.
- 32 (5) Public defenders.
- 33 (6) Members of a city council.
- 34 (7) Members of a board of supervisors.
- 35 (8) Appointees of the Governor.
- 36 (9) Appointees of the Legislature.
- 37 (10) Mayors.
- 38 (11) City attorneys.
- 39 (12) Police chiefs and sheriffs.
- 40 (13) A public safety official, as defined in Section 6254.24.

- 1 (14) State administrative law judges.
- 2 (15) Federal judges and federal defenders.
- 3 (16) Members of the United States Congress and appointees of
- 4 the President.
- 5 (g) Nothing in this section is intended to preclude punishment
- 6 instead under Sections 69, 76, or 422 of the Penal Code, or any
- 7 other provision of law.

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